

WHY HARMON AND JUDSON RESIGNED

President and Attorney General
Would Not Permit Proceeding
for Contempt of Court.

INVOLVING HON. PAUL MORTON

Special Counsel Therapon Spoke
Some Plain and Salutory Truths.
Straight From Shoulder and Retired
From the Case—Corporate Villainies
With Individual Sources.

(By Associated Press.)
WASHINGTON, June 21.—President Roosevelt has taken occasion to express himself in most positive terms complimentary of the integrity and ability of Paul Morton, former vice-president of the Atchafalaya, Topeka & Santa Fe railroad, and now concluding his duties as secretary of the navy that he may assume the chairmanship of the board of directors of the Equitable Life Assurance Society. These expressions are contained in two letters, one addressed to the attorney general and the other to Mr. Morton. The letters were made public today by the administration together with a number of others, which, taken together, show the precise point of difference between the department of justice and Messrs. Harmon and Judson, who recently resigned as special counsel for the government in the rebate case involving the Santa Fe road, and the Colorado Fuel and Iron Company. The special counsel wished to bring contempt proceedings against the officers of the road, which would have included Mr. Morton. Their position was that the testimony adduced before the Interstate Commerce Commission established a violation of the court order of March 25, 1902, restraining the company from the execution of any agreement to interpose interstate traffic rates lower than the published tariff of the road.

Prima Facie Case.
This testimony the lawyers contended constituted a prima facie case against the officers of the road and the only way to ascertain their guilt or innocence was through contempt proceedings.

Attorney General Moody opposed the contempt proceeding on the grounds that while the evidence before the commission might show a violation of the injunction, it contained nothing connecting any officer of the company with such violation. President Roosevelt took the same view. Both the president and the attorney general agreed that contempt proceedings should be instituted impersonally against the corporations in both the Colorado Fuel and the International Harvester case. The latter case, the president says, stands exactly on the same footing and involves all of the western roads.

The correspondence began with a letter from Messrs. Harmon and Judson to the attorney general, dated February last, in which was a review of the testimony in the Colorado Fuel case before the Interstate Commerce Commission with the conclusion that a violation of the injunction had been shown. In part the letter said:

Rebate to the Road.
"From August, 1902, until December, 1904, the railway company, referring to the Santa Fe, continuously transported coal for the Colorado Fuel and Iron Company at less than the published rates then in force, from various points in Colorado and elsewhere, to El Paso, Tex., Deming, N. M., and other places to which such transportation was interstate commerce. This was done by secret arrangement between the two companies, under which the coal was apparently billed at the published rate of freight, although, in fact, the price of the coal was included. The railroad company collected the amount shown by the billing and paid over part of it to the fuel company as the price of the coal, making the real charge for transportation less than the published rate by just that amount. At the same time the rates given and charged other shippers were the published tariff rates without any deduction. This plan, and the way it was carried out, plainly indicate an intention to deceive the government and the public and to enable the fuel company to

gain a monopoly of the coal supply at the points involved by giving them a strong advantage over competitors in the actual cost of transportation."

No Immunity for Officers.
The letter recited that only one of the officers of either company, had been called as witnesses and that no immunity from prosecution could be claimed by any of the other officers of either company. No papers had been submitted by the fuel company, and consequently no immunity claim could be claimed for it. Certain papers had been submitted by the railroad company, but only such as are by law made public, consequently no immunity claim would stand thereby. Messrs. Harmon and Judson recommended that the railroad company and all of its principal officers and agents, perhaps including some subordinate officers and agents, be arraigned for contempt of court in making and carrying out the agreement referred to.

Some further correspondence ensued, ending in a second recommendation of Messrs. Harmon and Judson of contempt proceedings on the ground that only by judicial process could formal proof be obtained to punish for contempt of court and also criminally. Attorney General Moody replied:

"Before proceeding for contempt, or criminal proceedings, against either the railroad or the fuel company, or their officers or agents are begun, I desire that all the material facts should be before the department and that the department should have the benefit of your advice upon them."

Discussed Methods of Procedure.
The next letter in the series was addressed to the attorney general by Messrs. Harmon and Judson. It reviewed their recommendation of March 11, that further testimony be taken and added that this testimony was desirable "not so much with a view of procuring proof of the violation of the injunction as a basis for an attachment for contempt against the railroad company and its officers, as with the view of procuring detailed proof of unlawful shipments, so as to have a proper basis of proceeding under the criminal provisions of the Elkins act against the Colorado Fuel & Iron Company and its officers."

The letter then argued that testimony taken before a master would be limited as to the contempt phase of the case unless contempt charges were issued against the railroad company and its officers. The distinction was made that in the contempt proceedings it would only be necessary to produce proof that the injunction had been violated, while in a criminal prosecution detailed proof of specific shipments would have to be shown.

Attorney General Disapproved.
In a letter dated May 19, the attorney general disapproved of contempt proceedings as suggested by special counsel. The letter says:

"The advice which you give is that an application should be made for an attachment for contempt of the injunction against the railroad company and its managing officers. There is no difference between us as to proceeding against the corporation itself. If the transactions set forth in the report of the interstate commerce commission in regard to the departure from the published rates by the Atchafalaya, Topeka & Santa Fe Railroad in favor of the Colorado Fuel & Iron Company are in violation of the terms of the injunction, the evidence before the commission shows with sufficient clearness that the injunction has been violated and the railroad company has been guilty of contempt of court."

To Morton's Defense.
"But you go further, and recommend proceedings against the managing officers of that company. I have examined a transcript of the testimony taken by the commission. There is not a syllable of testimony that Mr. Ripley, the president of the road, Mr. Morton, then one of its vice-presidents, had any connection whatever with the departure from the published rates in favor of the Colorado Fuel & Iron Company, or that they knew or suspected that transportation was furnished to this company in any manner different from that prescribed by the open and published rate. Neither of these officials were in the remotest way referred to in the testimony or in the report of the commission. Surely it would not be contended upon this state of facts those officials were subject to a penalty for contempt of court."

"After great consideration I am of the opinion that evidence ought to proceed the accusation and that an accusation so grave in its character ought not to be made unless there ap-

(Continued on Eighth Page.)

STREETS RUN RED WITH BLOOD OF WORKINGMEN

Soldiers and Cossacks Fire Into a Procession of 50,000 Poles Engaged in Demonstration Against Government—
18 Killed; 100 Injured.

(By Associated Press.)

LODZ, RUSSIAN POLAND, June 21.—Eighteen persons were killed and 100 wounded tonight by volleys fired by dragoons and cossacks on a procession of 50,000 workmen which had been organized as a demonstration against the government.

The demonstration had been quietly arranged. At 5 o'clock the workmen, 50,000 strong, with thirty red flags, marched through the streets shouting: "Down with despotism."

They gathered in the old market place where speeches were made by Socialists.

Up to this point the police had not interfered. At 9 o'clock the procession reformed and was marching up Główna street, when suddenly the cossacks and dragoons rushed from the side streets and fired a number of volleys. The crowd fled panic-stricken, leaving 18 killed and 100 wounded.

ACTIVE OPERATIONS BEGUN BY JAPANESE

Number of Towns and Hills Occupied by Detachments of Marshal Oyama's Force.

SEVERAL SEVERE BRUSHES

Ten Dead Russians Left on Field Following Attack on Hills South of Suifuizantzu—Japs Captured One Machine Gun—Nellidoff Selected As One Peace Plenipotentiary.

(By Associated Press.)

PEKING, June 21.—4 p. m.—This official despatch was received today from the headquarters of the army in Manchuria:

"In the direction of Weiynanpaomen our detachment occupied Lichwachieh, June 18, without encountering resistance. It also occupied Yengouintzu, twenty miles northwest of Weiynanpaomen and drove the enemy back on his positions on the Kirin road.

"Farther north another force the same day dislodged the enemy from Yangtzu Pass and the vicinity ten miles north of Weiynanpaomen and occupied a line of hills northwest of Shihuiwozu and those seven miles north of Yangtzu Pass.

Russians to North Routed.

"Our forces also routed the enemy holding positions north and northwest of the same place.

"In the Changtu direction our forces advanced along the railroad and dislodged the enemy's cavalry and infantry, holding an eminence two miles north of the Spachotu railroad station and took possession of a line of hills south of Suifuizantzu and eighteen miles northeast of Changtu June 17. The station was found to be demolished. Our casualties were four men wounded. The enemy left ten corpses, including the body of an officer and three horses killed.

Machine Gun and One Horse.

"Our force captured one machine gun and one horse. The enemy's loss must have been heavy.

"Our force advancing on the Fenghuang road, after a vigorous fight with infantry and artillery from three in the morning of June 19, dislodged the enemy from Tseifanchengskou, ten miles southeast of Hailienman and occupied, at 8:40 the same morning, Lichachou, sixteen miles north of Changtu."

M. Nellidoff is Appointed.

ST. PETERSBURG, June 21.—M. Nellidoff, Russian ambassador to Paris, has been definitely appointed one of the Russian peace plenipotentiaries.

In Los Angeles, Next Year.

(By Associated Press.)

NIAGARA FALLS, N. Y., June 21.—The Imperial Council Nobles of the Mystic Shrine, decided to meet next year, in March, at Los Angeles, Cal.

HENDRICKS' REPORT HITS THE NEW REGIME

"Cancer Cannot be Cured by Treating Symptoms," Says Insurance Commissioner.

STOCK MUST BE ELIMINATED

No Superficial Measures Will Correct Existing Evils in the Equitable Life Assurance Society—Copy of Report Submitted to Attorney General for Action Deemed Proper.

(By Associated Press.)

ALBANY, N. Y., June 21.—The report of Superintendent Hendricks, of the State Insurance department, to Governor Higgins, upon his investigation of the Equitable Life Assurance Society, was made public here and in New York tonight.

It is described in the title as "a preliminary report," and it sharply criticizes the management of the society, as well as the new trust arrangement for voting the stock, agreed upon by Thomas F. Ryan and three trustees designated by him.

No Superficial Measures.

In conclusion Superintendent Hendricks says:

"No superficial measures will correct the existing evils in this society. A cancer cannot be cured by treating the symptoms. Complete mutualization with the elimination of the stock, to be paid for at a price only commensurate with its dividends is, in my opinion, the only sure measure of relief."

"This report, with a copy of the evidence taken on this investigation, will be transmitted to the attorney general for such action thereon as he may deem proper."

Mr. Hendricks criticizes leases to other safety deposit companies organized by Henry B. Hyde as occasioning loss to the society.

One Deal Outlined.

He says the Equitable paid \$500 a share for Equitable trust company stock now worth \$383, whereas Mr. Hyde and others secured their holdings at \$150. This transaction shows, Mr. Hendricks declares, that the officers and executive committee of the Equitable Life were not solicitous for the society's welfare, but were active in promoting their own private interests.

Extravagance and waste in salaries are severely condemned. The increase in this respect in the executive offices was from \$380,150 in 1901 to \$513,600 in 1904. It was found that President Alexander's salary was advanced from \$75,000 per annum, to \$100,000 without his request, in order that James H. Hyde's salary might be increased to the same figure. Chauncey M. Depew, the report shows, is paid \$20,000 a year as attorney. David R. Hill received \$5,000 a year

and Elihu Root, for 1905, \$25,000, also as attorneys.

Pension to Mrs. Hyde.
The pension of \$25,000 to Mrs. Henry B. Hyde is condemned as "unnecessary and probably illegal."

Of the financial administration of the society Mr. Hendricks says:
"The executive committee transacts all the important business of the society. The finance committee is composed of exactly the same men as the executive committee with one additional director, viz: Jacob H. Schiff, senior member of the firm of Kahn, Leach & Co., which has sold to the Equitable Society, according to its reports, since January 1, 1900, \$17,522,000 of bonds and \$1,780,000 of stock."

MINISTER BOWEN HITS AT LOOMIS

Declares That Venezuelan Scandal Constitutes a "National Disgrace." Attempt to Bribe Him.

(By Associated Press.)

NEW YORK, June 21.—Herbert W. Bowen, formerly minister to Venezuela today made public a long statement in reply to President Roosevelt's dismissing him from the diplomatic service.

Mr. Bowen declares that the Venezuelan scandal constitutes "a national disgrace." He asserts that "the Loomis scandal" pervaded Caracas and constantly "grew worse and worse." Mr. Bowen says that shortly after he called the matter to the attention of the department of state he received a cable offer from Washington of diplomatic promotion that would remove him from Caracas.

"I admit," he declares, "that I regarded the offer as an attempt to bribe me, veiled under the offer of a higher position and inspired by Mr. Loomis. I have no doubt that in the course of the recent inquiry it has been sufficiently plain that I did not think Mr. Loomis an honest man and that I did not believe his conduct as minister to Venezuela had been honorable."

SWEDES ACQIESCE IN DISSOLUTION

Bill Offered to Provide for Settlement of Questions Raised by Norway's Action.

(By Associated Press.)

STOCKHOLM, June 21.—The extraordinary session of the Reichstag summoned by King Oscar to deal with the momentous question raised by Norway's declaration dissolving the union met for business today. The government immediately introduced a bill asking for authorization to enter into negotiations with the Norwegian Storting and to draw up a conditional settlement of the questions involved in the separation of the heretofore dual kingdom.

SENATOR FACES A JURY OF HIS PEERS

Oregon Representative in Upper House of Congress Severely Criticized by District Attorney.

(By Associated Press.)

PORTLAND, ORE., June 21.—Charged with using his office for private gain in connection with the land frauds in Oregon, United States Senator John H. Mitchell today, for the first time in his life, and at the age of three score years and ten, faced a jury of his peers.

United States District Attorney Heney's arraignment of Mitchell was severe. Attorney A. S. Bennett, counsel for the defendant, denied the allegations of the prosecution, stating that Senator Mitchell was guiltless in intent.

Bell Paid a Fine.

J. J. Bell, who was arrested Tuesday night by Sergeant J. W. Reynolds on the charge of carrying concealed weapons, was fined \$27.75 by Justice Brown in the police court yesterday. Bell was carrying a blackjack.

Overcome by Heat.

Deputy City Treasurer T. C. Powell, who was overcome by heat at Twenty-seventh street and Chestnut avenue Tuesday afternoon, was resting comfortably yesterday and he probably will be able to be at his office in a day or two.

TWENTIETH CENTURY FLYER FLEW TRACK

Lake Shore Train Ditched by Open Switch While Running at High Speed.

FIVE KILLED; FIFTEEN HURT

Combination Baggage, Smoking and Buffet Car and Coach Behind Burned—Engineer Among Killed and Fireman Was Fatally Injured—Pitiful Scenes Follow the Accident.

(By Associated Press.)

MENTOR, OHIO, June 21.—Running at the rate of fifty or sixty miles an hour, the Twentieth Century Limited on the Lake Shore Railroad dashed into an open switch at the passenger station here shortly after 10 o'clock tonight. Four or five persons were killed and twelve or fifteen badly injured. The combination baggage, smoking and buffet car and the coach behind it, caught fire and were destroyed.

The train was east bound, having left Cleveland about 9 o'clock tonight and as it does not stop here it was running at great speed.

Engine Plowed Into Ground.

The engineer did not notice the open switch until the train struck it. The engine left the rails and plowed into the ground, tearing up the track for yards. The two coaches following it, jammed into it with great force and were crushed, the fire from the engine setting them ablaze. Fortunately most of the occupants of those two coaches were rescued before the fire reached them.

Among the killed is the engineer, the other dead being passengers who were in the smoking car. The fireman was so badly hurt that he will die, and among the injured is a Mr. Wellman, of Cleveland, and Attorney Bennett of New York.

The Lake Shore officials at once summoned all the doctors within reach, a number coming from Cleveland. The dead and injured were taken care of and sent on a special train to Cleveland, where they will be placed in hospitals.

Pitiful Scenes Follow Accident.

The scenes following the collision were pitiful. The moans of the dying, mingled with the cries and screams of the men and women on the train. Those in the day coaches were not injured and they set about at once to rescue those pinned in the burning cars. The fire spread with great rapidity and it was with much difficulty that the passengers in the two coaches behind the engine were pulled from the debris.

The officials have not yet determined who is to blame for the accident, but it is believed the switch was left open by a freight crew whose train had occupied the siding a short time before the limited came dashing along.

MR. REID HIT BOAT BUT HE "MISSED" IT

Was Hauled Out on Ferry Float on Norfolk Side of the Elizabeth River.

(Special to the Daily Press.)

NORFOLK, VA., June 21.—W. H. M. Reid, of Norfolk, cashier at the Tunis Lumber Company's mills, in Berkeley, while attempting to catch the Berkeley ferry steamer "Superior" on this side of the river, today, jumped a safety gate after the boat had been run up and was moving from the dock. Missing his balance, Mr. Reid went overboard. He swam quickly to the edge of the ferry float and was hauled out of the water by the gatekeeper with the use of a hook. He was found to have a cut on the forehead sustained by striking the edge of the boat as she moved off.

Dr. Woodend Goes to Jail.

(By Associated Press.)

PHILADELPHIA, June 21.—Dr. W. E. Woodend of New York, who was arrested Monday on the charge of obtaining money on false pretense, was sent to the county jail tonight, not having been entered for his release. Ever since his arrest he has been in custody of a constable. Dr. Woodend expects his friends to secure his bond tomorrow.